

From the INTERNATIONAL BUREAU

PCTNOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)

(PCT Rule 44bis.1(c))

To:

HIGHET, David, W.
Becton Dickinson and Company
1 Becton Drive
Franklin Lakes, NJ 07417-1880
ETATS-UNIS D'AMERIQUE

JPL

Date of mailing (day/month/year)
20 July 2006 (20.07.2006)Applicant's or agent's file reference
P-6250.70

IMPORTANT NOTICE

International application No.
PCT/US2005/000624International filing date (day/month/year)
07 January 2005 (07.01.2005)Priority date (day/month/year)
09 January 2004 (09.01.2004)

Applicant

BECTON, DICKINSON AND COMPANY et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

Computer Updated

Date: 8/9/06

Initial: skw

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Simin Baharlou

Facsimile No. +41 22 338 82 70

e-mail: pt09@wipo.int

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P-6250.70	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2005/000624	International filing date (day/month/year) 07 January 2005 (07.01.2005)	Priority date (day/month/year) 09 January 2004 (09.01.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant BECTON, DICKINSON AND COMPANY		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input type="checkbox"/> Box No. II | Priority |
| <input type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

	Date of issuance of this report 10 July 2006 (10.07.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Simin Baharlou
Facsimile No. +41 22 338 82 70	e-mail: pt09@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 13 MAY 2005

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To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2005/000624

International filing date (day/month/year)
07.01.2005

Priority date (day/month/year)
09.01.2004

International Patent Classification (IPC) or both national classification and IPC
A61M5/315

Applicant
BECTON, DICKINSON AND COMPANY

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Ehrsam, F

Telephone No. +49 89 2399-2343



WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITYInternational application No.
PCT/US2005/000624**10/594335****Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/000624

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	5-22,25-32
	No: Claims	1-4,23-25
Inventive step (IS)	Yes: Claims	
	No: Claims	1-32
Industrial applicability (IA)	Yes: Claims	1-32
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

PCT/US2005/000624

1. The following documents are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: US-A-4 312 344 (NILSON ET AL) 26 January 1982 (1982-01-26)
D2: US-A-5 496 285 (SCHUMACHER ET AL) 5 March 1996 (1996-03-05)
D3: US-B1-6 200 627 (LUBRECHT THEA E) 13 March 2001 (2001-03-13)
D4: US-A-4 500 310 (CHRISTINGER ET AL) 19 February 1985 (1985-02-19)
D5: WO 03/093108 A (COMAR, INC) 13 November 2003 (2003-11-13)

See point V of the report:

1. The present application does not meet the requirements of Article 33 (2) PCT, because the subject-matter of claims 1-4 and 23-25 is not new in the sense of Article 33 (2) PCT. Indeed, document D1 discloses all the features of mentioned claims, in particular figures 5,8,9 show the similar principle of piston which is elastically deformable for moving additional fluid distally in said passageway at the completion of the flush procedure. The same objection applies to DE-B-3525347 D4, see in particular col. 9, line 35 to col. 10, line 32 and figures 13 and 14.
2. A combination of the features of any of claims 5-22 with claim 1 and 26-32 with claim 23 would not result in an independent Claim involving an inventive step, since all the features appear to represent commonly known, non-inventive modifications.

See point VII of the report:

1. The description must be brought into conformity with the new claims to be filed; care should be taken during revision, especially of the introductory portion including any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Art. 34 2) b)).
2. To meet the requirements of Rules 6 3 b) the independent claim should be properly cast in a two part form, with those features which in combination are part of the nearest prior

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/US2005/000624

art being placed in the first part.

3. To meet the requirements of Rule 5.1 a vi, the cited documents should be identified in the description and the relevant background art therein is to be indicated.
4. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

See point VIII of the report:

1. Although claims 1 and 23 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness. Moreover, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult, if not impossible, to determine the matter for which protection is sought, and places an undue burden on others seeking to establish the extent of the protection.
Hence, claims 1 and 23 do not meet the requirements of Rule 6 PCT.